United Nations A/64/PV.120

General Assembly
Sixty-fourth session

Official Records

120th plenary meeting
Thursday, 9 September 2010, 3 p.m.
New York

President: Mr. Ali Abdussalam Treki ..... (Libyan Arab Jamahiriya)

The meeting was called to order at 3 p.m.

Agenda item 77

Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law

Note by the Secretary-General (A/64/881)

Draft resolution (A/64/L.65/Rev.1)

The President (*spoke in Arabic*): I now give the floor to His Excellency Mr. Vuk Jeremić, Minister for Foreign Affairs of Serbia, on a point of order.

Mr. Jeremić (Serbia): I have a point of order. We see representatives of Pristina in the Hall. They do not represent an independent, sovereign United Nations Member State, so could you please explain to us, Mr. President, their presence in the Hall?

The President: I would like to inform Member States that the representatives from Pristina are present today in the General Assembly Hall as guests of the delegations of France, Germany, Italy, the United Kingdom and the United States. With that I think I have answered the question of the representative of Serbia.

As noted in document A/64/881, the individual opinions, separate opinions and declarations appended to the advisory opinion will be issued as an addendum to the present note.

I now give the floor to His Excellency Mr. Vuk Jeremić, Minister for Foreign Affairs of Serbia, to introduce draft resolution A/64/L.65/Rev.1.

Mr. Jeremić (Serbia): Allow me to introduce draft resolution A/64/L.65/Rev.1, proposed by the Republic of Serbia, which is co-sponsored by the 27 countries of the European Union.

My presence here today as Foreign Minister of the Republic of Serbia signifies the paramount importance that my country assigns to the issue that we have met to discuss. As befits the General Assembly and in accordance with established practice, we are here to follow up after the advice of the International Court of Justice, placing its opinion in an appropriate international context that contributes to all-around stability.

To that end, the Republic of Serbia has submitted a draft resolution, co-sponsored by the 27 member States of the European Union. Some of them continue to respect the territorial integrity of Serbia, while others have recognized Kosovo's unilateral declaration of independence. Nonetheless, common ground has been reached by ensuring that the draft resolution is fundamentally a status-neutral document.

The Republic of Serbia does not, and shall not, recognize the unilateral declaration of independence of Kosovo. The draft resolution receives with respect and acknowledges the content of the Court's findings in the present matter. In addition, the draft resolution welcomes the readiness of the European Union to facilitate the process of dialogue between the parties,

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506. Corrections will be issued after the end of the session in a consolidated corrigendum.

10-51162 (E)

Please recycle

which in itself would help to secure regional gains, reinforce shared strategic priorities and improve the lives of the people on the ground. We hope that the draft resolution, if adopted, will help create an atmosphere conducive to the establishment of a comprehensive compact of peace between Serbs and Albanians, achieved through good-faith dialogue. Only such an approach can produce a legitimate and sustainable result consistent with the fundamental principles of the United Nations.

The Republic of Serbia believes that the draft resolution before the General Assembly deserves the full support of this body. We therefore propose that it be adopted by consensus.

The Assembly should have no doubt that, come what may, Serbia's resolve shall not waver. We will not tire, because we must not fail. Although our challenges remain formidable, so do our strengths as we look to the future with conviction in the justice of our cause.

Mr. Mehdiyev (Azerbaijan): With regard to the draft resolution entitled "Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law" (A/64/L.65/Rev.1), Azerbaijan commends the efforts aimed at finding mutually acceptable ways to continue a dialogue between the parties for the purpose of peace, security and stability in the region. At the same time, I would like to reiterate Azerbaijan's principled position, according to which unilateral actions cannot be an acceptable way of resolving armed conflicts and territorial issues.

It is essential to emphasize that States are at the heart of the international legal system and the prime subject of international law, while the principle of the protection of the territorial integrity of States is bound to assume major importance. International law is unambiguous in not providing for the right of secession from independent States and in not creating grounds and conditions for legitimizing non-consensual secession in any sense. Such unilateral actions do not involve the exercise of any right conferred in international law, and hence have no place within the generally accepted norms and principles of international law, which apply within precisely identified limits.

In paragraph 81 of its advisory opinion of 22 July 2010 (*see A/64/881*), on the accordance with international law of the unilateral declaration of independence in respect of Kosovo, the International Court of Justice reaffirmed that the legality attached to the unilateral secession stems from the fact that,

> "they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (*jus cogens*)."

Our firm position is that the only way to reach a just and comprehensive settlement of conflicts and disputes is an approach based on full and unequivocal respect for the letter and spirit of international law. The international community should therefore redouble its efforts in rejecting any attempts at imposing solutions based on the result of unilateral actions, the use of force, the seizure of territory and ethnic cleansing.

As a country suffering aggression from a neighbouring State, foreign military occupation and the ethnic cleansing of its territories, Azerbaijan believes that the fulfilment in good faith of the obligations assumed by States under the Charter of the United Nations and international law is of the greatest importance for the maintenance of international peace and security.

Mr. Valero Briceno (Bolivarian Republic of Venezuela) (*spoke in Spanish*): The Government of the Bolivarian Republic of Venezuela believes that the unilateral declaration of independence issued by the Provisional Institutions of Self-Government of the autonomous Government of Kosovo violates Security Council resolution 1244 (1999). That declaration does not take into account the mandate set out in the resolution to comply with the principles of sovereignty and territorial integrity vis-à-vis the Serbian State. The unilateral declaration of independence also contradicts previous resolutions of the Security Council, including resolutions 1160 (1998), 1199 (1998), 1203 (1998) and 1239 (1999), which also establish the same mandate.

The Government of the Bolivarian Republic of Venezuela maintains that the right to secession, which is enshrined in the principle of the right of peoples to self-determination, applies only and exclusively to colonized territories, within the terms of resolution 2625 (XXV).

In that context, the Bolivarian Republic of Venezuela supports any initiative put forth by the

General Assembly with regard to preserving and maintaining the principles of international law, whose supremacy is unquestioned. We should therefore emphasize the need to encourage the parties to find a mutually acceptable resolution of outstanding issues on the basis of dialogue, in the interests of peace and security in the region.

The Bolivarian Republic of Venezuela's foreign policy includes the principle that conflicts and disputes should be resolved peaceably between parties, in line with Article 33 of the United Nations Charter, on the pacific settlement of disputes.

The Bolivarian Republic of Venezuela supports draft resolution A/64/L.65/Rev.1, which has been introduced today in this world body by His Excellency Mr. Vuk Jeremić, Minister for Foreign Affairs of the Republic of Serbia.

Mr. Limeres (Argentina) (*spoke in Spanish*): My delegation supports draft resolution A/64/L.65/Rev.1, as we believe it necessary to promote a peaceful dialogue between the parties that makes it possible to reach a mutually satisfactory agreement.

In that regard, I should like to recall that international peace and security constitute one of the pillars of the United Nations system. The Security Council is the main organ of the United Nations with purview in that regard. The basis for the collective security system established by the Organization is predicated on United Nations Members being obliged to adhere to the relevant resolutions of the Organization.

A political solution to this issue should be based on respect for the decisions adopted by the United Nations. With regard to Kosovo, we should bear in mind Security Council resolution 1244 (1999), which clearly establishes the legal and political parameters for achieving the political solution to which I have referred. The validity of that resolution has now been acknowledged by the International Court of Justice in its advisory opinion of 22 July 2010 (*see A/64/881*).

The President (*spoke in Arabic*): I should like to consult the General Assembly with a view to proceeding immediately to consider the draft resolution contained in document A/64/L.65/Rev.1.

In that connection, since the draft resolution has only been circulated today, it would be necessary to waive the relevant provision of rule 78 of the rules of procedure, which reads as follows:

> "As a general rule, no proposal shall be discussed or put to the vote at any meeting of the General Assembly unless copies of it have been circulated to all delegations not later than the day preceding the meeting."

Unless I hear any objection, I shall take it that the Assembly agrees with that proposal.

It was so decided.

The President (*spoke in Arabic*): Before we proceed, I would like to notify members that technical corrections are now being made to the Chinese and French versions of draft resolution A/64/L.65/Rev.1. The final version will include all those changes.

We shall now proceed to consider draft resolution A/64/L.65/Rev.1. May I take it that the Assembly decides to adopt it?

Draft resolution A/64/L.65/Rev.1 was adopted (resolution 64/298).

The President (*spoke in Arabic*): Before giving the floor to speakers in explanation of position following the adoption of the resolution, may I remind speakers that explanations are limited to 10 minutes and should be made by delegations from their seats.

Ms. DiCarlo (United States of America): The United States welcomes this resolution, which responds to the advisory opinion of the International Court of Justice on Kosovo's declaration of independence. We fully support the resolution, and therefore joined the consensus on it. The Court has answered the question posed by the General Assembly. The Court's answer was clear. Kosovo's declaration of independence did not violate general international law or Security Council resolution 1244 (1999).

Our consistent position has been that the situation in Kosovo is a special case, and not a precedent for other conflicts. Indeed, the Court's opinion is quite specific, namely, that Kosovo's declaration of independence had to be considered within the factual context that led to its adoption. This included, as the opinion described, the framework established by resolution 1244 (1999) to resolve the humanitarian crisis in Kosovo, the establishment of a transitional administration and the United Nations-facilitated future status process, which concluded that the negotiations

on Kosovo's status were exhausted and that further talks on status would not produce a mutually agreeable outcome.

Resolution 64/298 is consistent with the United States strong support for Kosovo's independence, sovereignty and territorial integrity. Now is the time for the region to move forward and for Serbia and Kosovo to open a new phase in their relations, focused on their shared future within the European Union. We therefore welcome the European Union's offer to facilitate a dialogue between Kosovo and Serbia to promote cooperation, achieve progress on their respective European integration paths and improve the lives of people in the region, thereby enhancing peace, security and stability in the Balkans.

The United States is prepared to lend its support to a constructive, forward-looking dialogue. More broadly, we remain fully engaged and committed to helping Kosovo, Serbia and all the countries of the region to realize their aspirations for full integration into the Euro-Atlantic community.

Mr. Apakan (Turkey): The advisory opinion of the International Court of Justice on Kosovo's declaration of independence (see A164/881), which was issued on 22 July, stated without any ambiguity that the declaration, made in February 2008, did not violate general international law. The advisory opinion, which was clear and decisive, marks the end of the legal process on Kosovo. In that respect, Turkey welcomes resolution 64/298. We believe it is an important step forward in the establishment of lasting peace, stability and prosperity in the region. My delegation is therefore in favour of it.

We appreciate the steps taken by Serbia to introduce the resolution. Serbia is an important player and partner in the region when it comes to addressing core issues and ensuring lasting peace and stability in the Balkans. We believe that the dialogue to be established is the only viable way to reach a common understanding, and that Serbia can and will contribute to attaining the needed peaceful solution on all issues of mutual concern.

Our position on Kosovo's independence is well known. Turkey recognizes Kosovo, upholds its territorial integrity and sovereignty, supports its democratic structures and Euro-Atlantic orientation and advocates its inclusion in regional cooperation schemes.

What now remains to be done is to look forward and encourage Serbia and Kosovo to address their future relationship through dialogue and mutual respect. In that regard, I would like to express our appreciation to both Belgrade and Pristina for keeping diplomacy at the forefront with regard to the Kosovo issue since 2008. Turkey enjoys friendly relations with Serbia and Kosovo. We are committed to the achievement of the objectives of peace, stability and prosperity for the whole region. We firmly believe that the common future of the region lies in European and Euro-Atlantic integration. Turkey is ready to assist the countries of the region to realize their aspirations in that regard and to contribute to the establishment of a constructive dialogue in our region.

Mrs. Viotti (Brazil): The resolution that has just been adopted, as a result of the agreement reached between Serbia and the 27 countries of the European Union, is auspicious for the continuity of dialogue on the question of Kosovo. We appreciate the role of the European Union in the efforts to resolve the dispute at hand. At the same time, we reiterate that any solution must have the support of the entire international community. Brazil believes that Security Council resolution 1244 (1999) remains the foundation for durable peace and stability in the region and for the resolution of the question of Kosovo, based on dialogue and respect for the principle of territorial integrity.

Mr. Pankin (Russian Federation) (*spoke in Russian*): In view of the agreement reached between Serbia and the European Union on the content of the resolution just adopted by the General Assembly on the advisory opinion of the International Court of Justice on the question of the legality of the unilateral declaration of independence of Kosovo (see A/64/818), the Russian delegation has joined the consensus.

Russia's position of principle on the issue of Kosovo remains unchanged. We firmly believe that Security Council resolution 1244 (1999) remains fully in force and is still binding on all as the international legal basis for settling the Kosovo question. The Security Council continues to have a leading role in a Kosovo settlement. We think it important that the parties resume dialogue with a view to a settlement of the Kosovo problem. An important role in facilitating that process will continue to be played by the United Nations Mission in Kosovo on the basis of the mandate given to it by the Security Council.

Mr. Wang Min (China) (*spoke in Chinese*): The Kosovo question is very complex and sensitive and has a bearing on the peace and security of the Balkans and of Europe as a whole. We have always believed that the best way to solve the Kosovo question is for the parties concerned to seek, through dialogue, a mutually acceptable solution within the framework of the relevant resolutions of the Security Council.

China takes note of the advisory opinion delivered by the International Court of Justice on 22 July (see A/64/818). We are also aware of the fact that different parties hold different views on this matter. China has maintained all along that respect for national sovereignty and territorial integrity is a fundamental principle of contemporary international law and the basis for the international legal order of our times. The sovereignty and territorial integrity of United Nations Member States should be respected by all parties. The Court's advisory opinion should not prevent the parties concerned from finding a proper negotiated solution to the problem.

Mr. Hardeep Singh Puri (India): My delegation joins others in welcoming the consensus that made it possible for the General Assembly to unanimously adopt resolution 64/298. India has consistently held the view that the sovereignty and territorial integrity of all countries should be respected by all States. Therefore, the Government of India has so far not recognized the unilateral declaration of independence by Kosovo. We believe that the Kosovo issue should be resolved peacefully through consultation and dialogue between the concerned parties.

Mr. Gutierrez (Peru) (*spoke in Spanish*): In October 2008, the General Assembly requested the International Court of Justice to render an advisory opinion on whether the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo was in accordance with international law. In response to that, on 22 July, the International Court of Justice delivered its advisory opinion and concluded that the declaration of independence by Kosovo did not violate international law or Security Council resolution 1244 (1999) or the Constitutional Framework of the Provisional Institutions of Self-Government of Kosovo.

The International Court of Justice is the only universal international entity with general jurisdiction. Its advisory opinions therefore contribute to developing international law — which, as a judicial body, it interprets independently and impartially.

Peru was very pleased to join the consensus to adopt resolution 64/298. We would have liked to have been a sponsor of it, for we believe that it reaffirms the primary role of international law and conforms to our strong tradition of respect for that pillar, on which the United Nations Charter is based. Likewise, we believe that it properly recognizes the judicial work carried out by the International Court of Justice.

My delegation believes it is important to underscore and acknowledge the constructive spirit and maturity shown by the Republic of Serbia, along with its European Union partners, which have made it possible for us to adopt this important resolution. We are certain that it will make a contribution to building peace and security in the region, thereby making it possible to carry forward a constructive dialogue based on cooperation that will clearly increase the well-being of all peoples of the Balkan region.

Mr. Hoxha (Albania): We are pleased with the decision by the Republic of Serbia to withdraw the controversial and disruptive text of draft resolution A/64/L.65, which contained narrow objectives to instrumentalize the General Assembly and hinder the progress in international support for the Republic of Kosovo. We support the wise decision to substitute that text with a text agreed among the 27 European Union member States, as embodied in resolution 64/298, which has just been adopted.

On 22 July 2010, the International Court of Justice delivered an advisory opinion on the accordance with international law of the unilateral declaration of independence in respect of Kosovo, in response to the question put forward by the General Assembly in resolution 63/3, of 8 October 2008, namely, whether the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo was in accordance with international law.

As is known to the membership, the Court concluded, by an overwhelming majority and in unambiguous terms, that Kosovo's declaration of independence violated neither general international law nor Security Council resolution 1244 (1999), nor the Provisional Constitutional Framework of Kosovo, adopted by the United Nations Interim Administration Mission in Kosovo pursuant to that resolution. The

Court's opinion made it clear that Kosovo's case is in fact a unique one, that it has its own long historical background and that it cannot and should not be related to any other situation elsewhere in the world. Albania welcomes this rendering of the world Court and we believe that this opinion should be acknowledged and respected. We are very pleased that the new resolution welcomes the Court's opinion with respect.

Kosovo's independence is a reality and has passed through many difficult phases, from war atrocities to lengthy negotiations under the mediation of the international community and the Secretary-General's special envoy. This reality has been increasingly recognized by Member States. The Court's advisory opinion will certainly help many countries to move towards recognition of the Republic of Kosovo, as the opinion also offers the prospect of a new phase in the relations between the Republic of Serbia and the Republic of Kosovo within the perspective of their integration into the European Union — a goal shared by the whole region.

Albania is attentive to the difficulty of some in the Government of Serbia to come to terms with this new reality. What happened today at the General Assembly was a clear illustration of that. But despite this, we note with satisfaction that the text adopted today has clearly nothing in common with what we have seen in recent weeks. That is the reason that the Republic of Albania decided to support it.

Albania expresses its deep appreciation for the efforts of the European Union, along with those of other countries that have recognized Kosovo, to bring Serbia to a reasonable position by presenting this new resolution. Indeed, it is very positive that, rather than calling in vain for renewed talks on the status of Kosovo, a process already fully exhausted and a chapter definitively closed, the new text supports efforts under way and encourages Serbia and Kosovo to engage in a cooperation process on practical matters, in the interests of both countries and in the spirit of good neighbourliness. Albania will lend its full support to such a process.

Mr. Thomson (Fiji): The Fiji delegation welcomes the consensus spirit that has allowed us to carry through the revision of the Serbian resolution on the unilateral declaration of the independence of Kosovo. We welcome in particular the readiness of the European Union to facilitate a dialogue process between the parties. This occasion allows us to reaffirm our belief that the principle of peaceful dialogue is fundamental to international relations. In the place of conflict and punishment, the words peaceful engagement and positive dialogue are those we need to hear more often in our daily work.

As a member of the United Nations Special Committee on Decolonization, Fiji continues to give careful consideration to the International Court of Justice advisory opinion on the unilateral declaration of independence of Kosovo. This is so because there is often a fine line to be identified between the United Nations stated purpose of respect for the self-determination of peoples and the Charter's principle of the territorial integrity of Member States.

For the Member States of the Organization, our overriding purpose is the maintenance of international peace and security. The implications of the Court's advisory opinion must therefore be addressed responsibly and vigilantly in order to avoid the perception of the opinion as a green light for other unilateral declarations of independence around the world.

Fiji is located in the region of Melanesia. The recent history of our region demonstrates that we must be sensitive to active and latent separatist tendencies. We recognize that our region is not alone in that regard. We therefore reiterate the need for careful consideration of the possible broader implications of the Court's advisory opinion, at all times with full respect for international law.

In conclusion, we reiterate that Fiji welcomes the consensus achieved today and trusts the revised resolution's commitment to dialogue directed at peace, security and stability in the region concerned.

Mr. Kleib (Indonesia): Resolution 64/298, which has just been adopted, clearly reflects the commitment of all concerned parties to find a solution to the question of Kosovo through dialogue. It is also in line with the preference consistently expressed by Indonesia to follow the path of dialogue and diplomacy to resolve the question of Kosovo and to find a mutually acceptable solution. This path alone will guarantee that the region achieves the path of stability, peace, security and prosperity. This has been true in other regions; it shall also be true in the Balkan region. This is the time for us to devote our full political and

diplomatic energies to finding a suitable and sustainable solution to the issue.

The International Court of Justice has discharged its task. Unquestionably, the advisory opinion will raise a host of new ramifications. We are also acutely aware that this opinion will have a dynamic life of its own. We will therefore rigorously examine the contents of the opinion.

In addressing the matter at hand, we wish once again to emphasize the importance of faithfully maintaining the sanctity of key international law and principles, in particular upholding of the principles of the peaceful settlement of conflicts, territorial integrity and political independence. That has been our steadfast position; it shall be our time-honoured principle.

Finally, we hope that the intention and readiness to undertake a process of dialogue, which is clearly reflected in the resolution, could be commenced in the immediate future — a process that will hopefully lead to achieving a mutually acceptable solution and that could contribute to the promotion of peace, stability and prosperity in the region. For its part, the United Nations should continue to remain engaged in the political process to find a sustainable and peaceful solution to this issue.

Mr. Baghaei Hamaneh (Islamic Republic of Iran): The Islamic Republic of Iran joined the consensus on resolution 64/298, which is the result of a compromise between Serbia and the European Union, with the understanding that the resolution is a call to relevant parties to resolve their dispute through peaceful dialogue. My delegation reiterates its principled position concerning the vitality of adhering to international law and the principles enshrined in the Charter of the United Nations. The Islamic Republic of Iran stresses that disputes have to be resolved through peaceful ways and in accordance with international law and with full respect for the lofty principles of the United Nations Charter, in particular the sovereignty and territorial integrity and political independence of the Member States of the United Nations.

The President (*spoke in Arabic*): We have heard the last speaker in explanation of position following the adoption of the resolution. May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 77?

It was so decided.

The meeting rose at 6:15 p.m.